

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-39191
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 3, 2010
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 3, 2010.

ISSUE

Was timely hearing request established?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Negative case action: MA changed to a deductible on September 15, 2009 based on excess income per BEM 503/545.
- (2) On January 4, 2010, hearing request submitted by claimant (prepared by him on December 28, 2009).

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Facts above are undisputed except #1.

The AHR, or if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. PAM, Item 600, p. 4.

A claimant shall be provided 90 days from the mailing of the notice in R 400.902 to request a hearing. R 400.904(4).

Claimant testified that he did not receive the negative case action notice mailed September 15, 2009 by the DHS; and that the address used by the local DHS was his correct mailing address.

The DHS representative testified to the mailing process in existence on September 15, 2009: That the notice information is placed in the local DHS computer and automatically transferred to central office for mail-out to a client; that this information also includes the claimants name and address; that if the mailing is returned as undeliverable by the US postal authority, it is returned to the local DHS for placement in a claimants file; and that she searched the claimants file and it had not been returned.

This ALJ finds the DHS mailing process more trustworthy and reliable than the claimant's statement that he did not receive the mailing in question.

Therefore, this ALJ does not find by the preponderance of the evidence of record a timely hearing request.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that a timely hearing request was not established.

Accordingly, MA change to a “deductible” UPHELD, and hearing request DISMISSED.

/s/

William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 12, 2010

Date Mailed: August 12, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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